

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13237, of 520 E Street Tenant Association, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the use provisions to allow an addition to an existing apartment house (Sub-section 3104.2), from the prohibition against allowing an addition to a non-conforming structure which now exceeds the allowable lot occupancy and the height limitation (Paragraph 7107.21), the closed court width requirements (Sub-section 3306.1 and Paragraph 7107.22), the lot occupancy requirements (Sub-section 3301.1 and Paragraph 7107.23) for a proposed addition to an existing structure in an R-4 District at the premises 520 E Street, N.E., (Square 835, Lot 68).

HEARING DATE: May 14, 1980
DECISION DATES: June 4 and July 2, 1980

FINDINGS OF FACT:

1. The case was properly advertised and heard on May 14, 1980. When the matter came up for discussion by the Board at the meeting held on June 4, 1980, the staff advised the Board that the same applicant had filed an additional application, No. 13301, concerning the same property. That application requested a variance to increase the number of units in the building. The Chairman ruled to consolidate the two cases. Subsequently, the applicant requested to withdraw Application No. 13301. That request was granted and this case was decided on its own merits.
2. The subject property is located in an R-4 District at the southwest corner of the intersection of E and 6th Streets, N.E.
3. The property is improved with a brick apartment building containing twenty-four units. The building was built in 1900-1910.
4. The present owner of the building purchased the building in January of 1980. The owner is renovating the building for the purpose of converting the property to condominium ownership.
5. As part of the renovation, the applicant proposes to construct an enclosed stair tower and add an elevator both in an interior court yard of the building. These features would improve the fire safety and convenience of the building.

6. Paragraph 3104.33 permits as a matter-of-right "the conversion of a building or other structure existing before May 12, 1952 to an apartment house." The Zoning Administrator has interpreted that regulation to apply only to that portion of a building existing before May 12, 1958. Since the applicant proposes to add to the existing building, Paragraph 3104.33 would not apply. A variance from the use provisions is thus required.

7. In an R-4 District, the maximum permitted lot occupancy for an apartment house is forty percent. The subject lot contains 6,066.88 square feet. The maximum permitted building area is thus 2,426.75 square feet. The existing building occupies 4,813.07 square feet and is thus non-conforming. The addition of the stair and elevator will increase the lot occupancy by 267.30 square feet to a total of 5,080.37 square feet. This is a lot occupancy of 83.73 per cent.

8. In an R-4 District, the maximum height is forty feet and three stories. The existing building is 51.5 feet in height, and is thus non-conforming. In addition, the building is four stories in the front, and five stories out of grade in the rear. A variance is thus required. The stair addition does not rise above the level of the roof. The elevator addition does not increase the height of the building as it measured under the regulations. The elevator does have a penthouse which extends five feet above the level of the roof. The penthouse will not be visible from either 6th or E Streets.

9. There is an existing closed court located at the rear of the building. The addition is to be located in part of the court. The remaining closed court at its narrowest part is 1.55 feet. The minimum width required would be seventeen feet. A variance of 15.45 feet is thus required.

10. There was no report from Advisory Neighborhood Commission - 6A.

11. There was no opposition to the application contained in the record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking both use and area variances. As to the use variance, the Board concludes that the granting of such a variance normally requires the showing of an exceptional or extraordinary condition of the property which would create an undue hardship upon the owner. In this case, the Board notes that the building is already in existence as an apartment house, was in existence as of May 12, 1958 and is therefore a permitted use. The variance is required only because the applicant proposes to add the stair and elevator. If those facilities were within the building, no use variance would be required. The Board concludes that the configuration of the existing building is such that the new stair and elevator cannot be located inside the building. The hardship is thus existing in the property.

As to the remaining variances, the Board concludes that they are all area variances, the granting of which requires the showing of an extraordinary or exceptional condition of the property which creates a practical difficulty for the owner. The Board concludes that all of the variances result from the existing non-conformity of the building. The practical difficulty is thus inherent in the property. The Board notes that the variance in lot occupancy is minimal, and that the addition will not be visible from public streets. The Board concludes that all the variances can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Connie Fortune, John G. Parsons, Leonard L. McCants and William F. McIntosh to GRANT; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 25 AUG 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.